60-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2022-0196; FRL-9701-01-R3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Removal of Stage II Gasoline Vapor Recovery Program Requirements and Revision of Stage I Gasoline Vapor Recovery Program Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision, made in two separate submittals, by the State of Delaware. This revision removes requirements for gasoline vapor recovery systems installed on gasoline dispensers, the purpose of which are to capture emissions from vehicle refueling operations, otherwise known as Stage II vapor recovery. This revision also strengthens Delaware's requirements for gasoline vapor recovery systems that capture emissions from storage tank refueling operations, otherwise known as Stage I vapor recovery. Specifically, this action would remove from the approved SIP prior-approved Stage II requirements applicable to new and existing gasoline dispensing facilities (GDFs). New and existing GDF's will be required to decommission their Stage II vapor recovery systems (VRS) and to install, maintain, and periodically test Stage I enhanced vapor recovery systems (EVRS). Delaware's SIP revision establishes a compliance schedule for these changes and includes a demonstration that removal of Stage II requirements is consistent with the Clean Air Act (CAA) and meets all relevant EPA guidance.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2022-

0196 at https://www.regulations.gov, or via email to gordon.mike@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Adam Yarina, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2103. Mr. Yarina can also be reached via electronic mail at Yarina.Adam@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we refer to EPA. The following outline is provided to aid in locating information in this preamble.

VI. Statutory and Executive Order Reviews

I. Background and Purpose

On November 17, 2020, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP. This SIP submittal includes Delaware's revised Stage I and Stage II vapor recovery regulations at 7 DE Admin Code 1124 Section 26.0 *Gasoline Dispensing Facility Stage I Vapor Recovery* and Section 36.0 *Vapor Emission Control at Gasoline Dispensing Facilities*, respectively. These regulations have been revised to require the decommissioning of existing Stage II VRS and the installation, maintenance, and testing of Stage I EVRS at new and existing GDFs. The SIP submittal establishes a compliance schedule for these changes and includes a demonstration that removal of Stage II VRS in Delaware will not interfere with any requirement concerning attainment or reasonable progress of any national ambient air quality standard (NAAQS), or any other applicable requirement of the CAA. All existing GDFs in Delaware were to decommission their Stage II VRS by December 31, 2021, and install Stage I EVRS by December 31, 2025. New GDFs are prohibited from installing Stage II VRS and must install Stage I EVRS at construction. Delaware's SIP demonstration is also intended to show that removal of Stage II requirements is consistent with all relevant EPA guidance.

Stage II vapor recovery is an emission control system that is installed on gasoline dispensing equipment at GDFs for the purpose of capturing fuel vapor that would otherwise be released from vehicle gas tanks into the atmosphere during vehicle refueling. Stage II VRS installed on dispensing equipment capture these refueling emissions at the dispenser and route the refueling vapors back to the GDF's underground storage tank, preventing volatile organic compounds (VOCs) that comprise these vapors from escaping to the atmosphere. Beginning in 1998, newly manufactured gasoline-burning cars and trucks have been equipped with on-board vapor recovery (ORVR) systems that utilize carbon canisters installed directly on the vehicle to capture refueling vapors in the vehicle to be later routed to the vehicle's engine for combustion

during engine operation.

Stage I VRS are systems that capture vapors displaced from storage tanks at GDFs during gasoline tank truck deliveries. When gasoline is delivered into an aboveground or underground storage tank, vapors that were taking up space in the storage tank are displaced by the gasoline entering the storage tank. Stage I VRS route these displaced vapors into the delivery truck's tank. Some vapors are vented when the storage tank exceeds a specified pressure threshold, however Stage I VRS greatly reduce the possibility of these displaced vapors being released into the atmosphere.

The 1990 CAA amendments initially required implementation of both Stage II VRS and ORVR systems. Section 182(b)(3) of the CAA required areas classified as moderate and above ozone nonattainment to implement Stage II vapor recovery programs, while CAA section 184(b)(2) required states in the Northeast Ozone Transport Region (OTR) to implement Stage II vapor recovery or comparable measures. CAA section 202(a)(6) required EPA to promulgate regulations for ORVR for light-duty cars and trucks (passenger vehicles); EPA adopted these requirements in a final action published in the April 6, 1994 **Federal Register** (59 FR 16262, hereafter referred to as the ORVR rule). Upon the effective date of that final rule, moderate ozone nonattainment areas were no longer subject to CAA section 182(b)(3) Stage II vapor recovery requirements. Under the ORVR rule, new passenger cars built in model year 1998 and later were required to be equipped with ORVR systems, followed by model year 2001 and later light-duty trucks. ORVR equipment has been installed on nearly all new gasoline-powered light-duty cars, light-duty trucks, and heavy-duty vehicles manufactured since 2006.[1]

During the phase-in of ORVR controls, Stage II has provided VOC emission reductions in ozone nonattainment areas and in certain areas of the OTR. Congress recognized that ORVR systems and Stage II VRS would over time become largely redundant technologies acting to

[1] EPA Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, Table A-1 (August 7, 2012).

capture the same pollutants; Congress therefore provided authority in the 1990 CAA amendments for EPA to allow states to remove Stage II vapor recovery programs from their SIPs upon EPA making a finding that ORVR is in "widespread use."[2] EPA issued a widespread use finding in a final rule published in the May 16, 2012 **Federal Register** (77 FR 28772), in which EPA determined that ORVR was in widespread use on a nationwide basis. EPA estimated that by the end of 2016, more than 88 percent of gasoline refueling nationwide would occur with ORVR-equipped vehicles.[3] Thus, Stage II vapor recovery programs have become largely redundant control systems for ORVR-equipped vehicles and, as a result, Stage II VRS achieve ever-declining emissions benefits as more ORVR-equipped vehicles continue to enter the on-road motor vehicle fleet.[4] In areas where certain types of vacuum-assist Stage II VRS are used, such as Delaware, the incompatibility between ORVR systems and certain configurations of Stage II vapor recovery systems results in the reduction of overall control system efficiency in capturing VOC refueling emissions, compared to what would otherwise be achieved by ORVR or Stage II VRS acting in the absence of the other. In its May 16, 2012 widespread use rulemaking, EPA also exercised its authority under CAA section 202(a)(6) to waive certain federal statutory requirements for Stage II VRS at GDFs, which among other things, exempted all new ozone nonattainment areas classified serious or above from the requirement to adopt Stage II vapor recovery programs. Finally, EPA's May 16, 2012 rulemaking also noted that any state currently implementing Stage II vapor recovery program may submit SIP revisions that would allow for the phase-out of Stage II VRS.

Stage I VRS have been in place since the 1970s. EPA has issued the following guidance regarding Stage I systems: "Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations" (November 1975, EPA Online Publication 450R75102), which is regarded as

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[2] See CAA Section 202(a)(6)
[3] EPA Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, Table A-1 (August 7, 2012).
[4] EPA Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, p.1 (August 7, 2012).

the control techniques guideline (CTG) for the control of VOC emissions from this source category; and the EPA document "Model Volatile Organic Compound Rules for Reasonably Available Control Technology" (Staff Working Draft, June 1992) contains a model Stage I regulation. In more recent years, the California Air Resources Board (CARB) has required Stage I VRS capable of achieving vapor control efficiencies higher than those achieved by traditional systems. These systems are commonly referred to as Stage I EVRS.

II. Summary of Delaware's Stage I and Stage II Vapor Recovery Program and SIP Revisions

Since the early 1990s, ambient air quality in Delaware – in particular that of New Castle County, which is Delaware's portion of the Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD metropolitan area – has been in nonattainment for the ground-level ozone NAAQS. New Castle County and Kent County were both classified as Severe-15 nonattainment for the 1-hour 1979 ozone NAAQS, while Sussex County was classified as Marginal nonattainment. See 56 FR 56694. Because gasoline vapors contain mainly VOCs and contribute to the formation of ground-level ozone, Section 182(b)(3) of the CAA Amendments of 1990 requires states with moderate and higher ozone nonattainment areas to revise their SIPs to require "owners or operators of gasoline dispensing systems to install and operate…a system for gasoline vapor recovery of emissions from the fueling of motor vehicles."[5] As a result, in 1993 Delaware adopted Stage I and Stage II vapor recovery requirements at 7 DE Admin Code 1124, Section 26.0 *Gasoline Dispensing Stage I Vapor Recovery*, and Section 36.0 *Stage II Vapor Recovery*,[6] respectively. These changes were subsequently incorporated into Delaware's SIP; see the Federal Register notice from June 10, 1994 at 59 FR 29956, and May 3, 1995 at 60 FR 21707.[7]

In September 2015, due to the widespread use of ORVR and its incompatibility with the

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[5] CAA Section 182(b)(3).

[6] The title of this section was subsequently revised by Delaware to "Vapor Emission Control at Gasoline Dispensing Facilities," as discussed later in this rule.

[7] Although these SIP revisions were approved by EPA on different dates, the Delaware state effective date for these requirements was January 11, 1993. The **Federal Register** document published on December 7, 1998 at 63 FR 67407 has a comprehensive list of approved Delaware SIP revisions as of that date.

Stage II vacuum-assist VRS in use at Delaware GDFs, Delaware revised its vapor recovery regulations to allow existing GDFs the option to decommission their Stage II VRS, and for new GDFs to forgo them entirely, provided that GDFs installed, maintained, and periodically tested Stage I EVRS.[8] These revisions, referred to by Delaware as the "2015 Stage II Regulation," were interim updates that were intended to test the feasibility and effectiveness of this approach, and were not incorporated into Delaware's SIP at that time. Delaware subsequently revised and finalized these requirements in 2019 and 2020. The finalized revisions, referred to by Delaware as the "2019 Stage II Revision," mandated that existing GDFs decommission their Stage II VRS by December 31, 2021, and prohibited new GDFs from installing them at all. At the same time, Delaware also updated and finalized changes to the 2002 version of 7 DE Admin. Code 1124, Section 26.0, *Gasoline Dispensing Facility Stage I Recovery*. These updated requirements mandated that existing GDFs install Stage I EVRS by December 31, 2025, while new GDFs were required to install them upon construction.[9]

On November 17, 2020, Delaware submitted a SIP revision to EPA consisting of these state regulatory requirements adopted by DNREC, along with a demonstration of the emission impacts of the changes to Stage I and Stage II requirements on affected Delaware areas. This SIP revision, referred to by Delaware as the "DE 2019 Stage I-II SIP Revision" includes revised rules that mandated the decommissioning of Stage II VRS at existing GDFs by December 31, 2021, prohibit the installation of Stage II VRS at new GDFs, and mandate the installation of Stage I EVRS at existing GDFs by December 31, 2025, and at new GDFs upon construction. Delaware's revised rules incorporate by reference requirements and procedures for decommissioning Stage II VRS based on Chapter 14 of the Petroleum Equipment Institute's "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-

[8] 19 DE Reg. 199, 7 DE Admin. Code 1124 *Control of Volatile Organic Compound Emissions*; issued August 17, 2015 via Secretary's Order No. 2015-A-0030, effective September 11, 2015.
[9] 24 DE Reg. 61, 7 DE Admin. Code 1124 *Control of Volatile Organic Compound Emissions*, Section 26 - *Gasoline Dispensing Facility Stage I Vapor Recovery*, and Section 36 - *Vapor Emission Control at Gasoline Dispensing Facilities*; issued June 11, 2020 via Secretary's Order No.: 2020-A-0017, effective July 11, 2020.

Fueling Sites," 2019 edition, PEI/RP300-19. The revised rules also incorporate by reference requirements and procedures for the design, installation, maintenance, and periodic testing of Stage I EVRS, and for the maintenance and periodic testing of Stage II VRS for GDFs that opt to continue operating them until the decommission deadline.[10]

Delaware's November 17, 2020 SIP revision also includes a demonstration supporting the discontinuation of the Delaware Stage II vapor recovery program. This demonstration, discussed in greater detail below, consists of an analysis that after the year 2016, the overall emissions benefits associated with the Stage II program, operated in conjunction with ORVR, are overwhelmed by an emissions disbenefit caused by ORVR incompatibility with the vacuum-assist type Stage II VRS equipment in use at Delaware GDFs. DNREC's analysis shows that continued operation of the Stage II vapor recovery program beyond 2016 actually increases VOC emissions due to the incompatibility between the vacuum-assist type Stage II VRS equipment in use at Delaware GDFs and ORVR, coupled with the increasing prevalence of ORVR-equipped vehicles. Delaware further demonstrates that mandating the decommissioning of all Stage II VRS equipment by December 31, 2021, will result in additional emissions benefits, especially when combined with Stage I EVRS and the increasing prevalence of ORVR-equipped vehicles.

On July 14, 2021, Delaware submitted an additional SIP revision to further amend 7 DE Admin. Code 1124, *Control of Volatile Organic Compound Emissions*, Section 36.0 *Vapor Emission Control at Gasoline Dispensing Facilities*. These amendments update references to several CARB Executive Orders (EOs) previously incorporated by reference into 7 DE Admin. Code 1124, which were subseuently modified by CARB between July 17, 2019 and June 3, 2020, after Delaware's 2020 amendments to 7 DE Admin. Code 1124. The modified CARB EOs extend expiration dates and specify additional parts to be used in some certified Stage I

[10] See 24 DE Reg. 61, 7 DE Admin. Code 1124, *Control of Volatile Organic Compound Emissions*, Section 36.4 *Standards for Facilities with Stage I Vapor Recovery Systems*, and Section 36.3 *Standards for Facilities with Stage II Vapor Recovery Systems*, respectively.

EVRS.[11] The 2020 SIP submittal and 2021 SIP submittal will both be considered in this rulemaking.

III. EPA's Evaluation of Delaware's SIP Revisions

EPA has reviewed Delaware's revised 7 DE Admin. Code 1124, *Control of Volatile Organic Compound Emissions*, and accompanying SIP narrative, and has concluded that Delaware's November 17, 2020 and July 14, 2021 SIP revisions are consistent with EPA's widespread use rule (77 FR 28772, May 16, 2012) and with EPA's "Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plan and Assessing Comparable Measures" (EPA-457/B-12-001; August 7, 2012), hereafter referred to as EPA's Stage II Removal Guidance.

Delaware's November 17, 2020 revision includes a demonstration supporting the discontinuation of the Delaware Stage II vapor recovery program, in compliance with the requirements of the CAA sections 110(l) requirement that revision of the SIP will not interfere with attainment of or reasonable further progress towards attainment of any NAAQS or any other applicable CAA requirement. This demonstration was prepared by DNREC based on relevant equations provided in EPA's Stage II Removal Guidance. From this analysis, Delaware determined that by2017 the emissions benefits from the Stage II vapor recovery program, in conjunction with ORVR will be overwhelmed by the emission disbenefits stemming from an incompatibility between Stage II vacuum-assist type VRS equipment and ORVR. Beyond 2016, the continuation of Stage II vapor recovery requirements would increase emissions in Delaware, as summarized in Table 1 in this document. If not removed, the vacuum-assist Stage II systems in Delaware would lead to an emission increase of 30.87 tons in the ozone season[12] and 71.13 tons annually by 2021. As a result, Delaware elected to allow decommissioning of Stage II VRS

[11] 24 DE Reg. 944, 7 DE Admin. Code 1124, *Control of Volatile Organic Compound Emissions*, Section 36.0, *Vapor Emission Control at Gasoline Dispensing Facilities*, specifically Section 36.5 *Requirements for Stage I Facilities with Continuous Pressure Monitoring Systems*, 36.10 *Approved Systems*, and Section 36.11 *Referenced Standards*; issued March 11, 2021 via Secretary's Order No.: 2021-A-0009, effective April 11, 2021.
[12] The ozone season is the five-month period from May 1 to September 30 in the calendar year.

beginning in September 2015 and to mandate decommissioning of Stage II VRS by December 31, 2021. Implementation of these requirements are estimated to reduce emissions resulting from the incompatibility of Stage II VRS and ORVR to 7.59 tons during the 2021 ozone season and 17.48 tons for all of 2021. The EPA has reviewed Delaware's work and finds that its underlying data, methods, and resulting conclusions are consistent with all relevant EPA guidance for Stage II vapor recovery requirements.

Table 1. Estimates of Delaware VOC Emissions Benefits from Stage II Vapor Recovery Equipment

Year	Tons* (Ozone season)	Tons* (Annual)
2016	3.74	8.62
2017	-4.96	-11.43
2018	-13.08	-30.14
2019	-19.78	-45.58
2020	-25.55	-58.86
2021	-30.87	-71.13
2022	-35.75	-82.37
2023	-40.17	-92.55
2024	-44.12	-101.65
2025	-47.59	-109.64
2026	-51.10	-117.74

*Negative numbers indicate emissions increases instead of emissions reductions

In evaluating whether a given SIP revision would interfere with attainment of a NAAQS, EPA generally considers whether the SIP revision will allow for an increase in actual emission into the air over what is allowed under the existing EPA-approved SIP. EPA has not required that states produce a new complete attainment demonstration for every SIP revision, provided that the status quo air quality is preserved.[13] EPA believes that a planned Stage II decommissioning that is shown not to result in an increase in areawide VOC emissions is consistent with the conditions of CAA section 110(l), and would not jeopardize attainment or maintenance of an area that formerly relied upon Stage II emission reductions in the approved SIP. Delaware has demonstrated that Stage II vapor recovery will no longer provide emission

[13] EPA Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, Section 2.2 (August 7, 2012).

reductions when compared to ORVR without Stage II vapor recovery. Stage II vapor recovery operated in conjunction with ORVR has been shown by Delaware to result in increased VOC emissions since 2017, due to incompatibilities between certain types of Stage II VRS equipment and vehicle ORVR systems. Therefore, EPA believes discontinuance of Stage II in Delaware will not interfere with the state's ability to attain or maintain the NAAQS, or to provide reasonable further progress in meeting the NAAQS.

States in the OTR defined by the CAA remain obligated under CAA section 184(b)(2) to implementeither a statewide Stage II vapor recovery program or other measures capable of achieving emission reductions "comparable to those achievable" by Stage II vapor recovery. EPA issued guidance on this OTR comparability demonstration in 1995 and later updated that guidance as part of its August 2012 Stage II Removal Guidance.

Delaware is required to demonstrate Stage II comparability for areas where Stage II vapor recovery was previously mandated by CAA section 182(b)(3) prior to EPA's issuance of its ORVR "widespread use" determination; for Delaware, this applies statewide (i.e., for New Castle, Kent, and Sussex counties). The 110(l) demonstration in Delaware's November 17, 2020, SIP revision shows that Stage II no longer yields VOC emissions benefits in these areas after 2016 when operated in conjunction with ORVR, and in fact results in emissions increases. Therefore, since Stage II provides no additional benefits beyond ORVR, and results in increases in VOC emissions after 2016, EPA believes that removal of Stage II satisfies the Stage II comparability requirement of section 184 for these areas.

In addition to the CAA section 182 and 184 requirements applicable to Stage II vapor recovery, CAA section 193 prohibits modification of any control requirement in effect before enactment of the CAA of 1990 (i.e., November 15, 1990) in a current nonattainment area – unless modification "ensures equivalent or greater emission reductions." Therefore, a Stage II vapor recovery control program implemented under a SIP prior to November 1990 may not be removed from the SIP until another requirement is shown to achieve equal or greater emissions

reductions than Stage II vapor recovery. Delaware did not have a Stage II program prior to November 15, 1990, so Stage II was not a part of the Delaware SIP prior to that date. Therefore, this "general savings clause" requirement of CAA section 193 does not apply to Delaware or to this action.

With respect to Stage I vapor recovery requirements, Delaware's revised regulations in 7 DE Admin. Code 1124, Sections 26.0 and 36.0 are more stringent than the previously approved version of the rule,[14] thus meeting the CAA section 110(l) anti-back sliding requirements. As noted above, the revised rule requires existing GDFs to install CARB-approved Stage I EVRS by December 31, 2025, while new GDFs are required to install them upon construction. CARB-approved Stage I EVRS have been certified to achieve a 98 percent reduction in VOC emissions, compared to 95 percent for non-EVRS Stage I systems. Thus, when non-EVRS Stage I systems in Delaware are replaced with CARB-approved Stage I EVRS, greater emission reductions will be achieved.

IV. Proposed Action

EPA is proposing to approve Delaware's November 17, 2020, and July 14, 2021 SIP revisions for statewide removal of Stage II vapor recovery requirements, statewide prohibition of Stage II VRS installation at new GDFs, the statewide mandatory decommissioning of Stage II VRS at existing GDFs by December 31, 2021, and the statewide mandatory installation of Stage I EVRS at all GDFs by December 31, 2025. Specifically, EPA is proposing to approve Delaware's revised 7 DE Admin. Code 1124, *Control of Volatile Organic Compound Emissions*, and incorporate it into the Delaware SIP. EPA is proposing to approve this SIP revision because it meets all applicable requirements of the Clean Air Act and relevant EPA guidance and because approval of this SIP revision will not interfere with attainment or maintenance of the ozone NAAQS.

[14] EPA's most recent approval of 7 DE Admin. Code 1124, Sections 26.0 and 36.0 was on August 11, 2010 (see 75 FR 48566).

EPA is soliciting public comments on the issues discussed in this notice or other relevant matters. These comments will be considered before taking final action.

V. Incorporation by Reference

In this document, EPA proposes to include, in our subsequent final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the State of Delaware's revised 7 DE Admin Code 1124 Section 26.0 *Gasoline Dispensing Facility Stage I Vapor Recovery* and Section 36.0 *Vapor Emission Control at Gasoline Dispensing Facilities*, which will include the revisions issued on August 17, 2015 via 19 DE Reg. 199 (state effective date September 11, 2015), the revisions issued on June 11, 2020 via 24 DE Reg. 61 (state effective date July 11, 2020), and the revisions issued on March 11, 2021 via 24 DE Reg. 944 (state effective date April 11, 2021).

EPA has made, and will continue to make, these materials generally available through https://www.regulations.gov and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork

Reduction Act (44 U.S.C. 3501 et seq.);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to remove Delaware's Stage II vapor recovery requirements does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic

compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: March 30, 2022

Adam Ortiz,
Regional Administrator,
Region III.

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